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**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Docket Number (Optional)

EMCCP076

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on April 26, 2006

Signature

Typed or printed name Jennifer C. Gross

Application Number

09/916,528

Filed

July 27, 2001

First Named Inventor

Pito Salas

Art Unit

3621

Examiner

Cristina O. Sherr

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)

☒

attorney or agent of record. 40,661

Registration number

☐

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34

Signature

William J. James

Typed or printed name

408-973-2592

Telephone number

April 26, 2006

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below\*.

☐

\*Total of forms are submitted.

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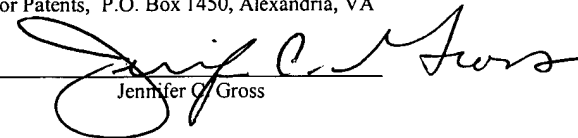
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor:	SALAS et al.	Examiner:	David Q. Le
Application No.:	09/916,528	Art Unit:	3621
Filed:	July 27, 2001	Docket No.:	EMCCP076
Title:	METHOD AND APPARATUS FOR CONTROLLING ACCESS TO A PRODUCT		

CERTIFICATE OF MAILING

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April 26, 2006.

  
Jennifer C. Gross

**REMARKS IN SUPPORT OF PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This is in response to the Final Office Action mailed December 27, 2005. The following remarks are respectfully submitted in support of Applicants' pre-appeal brief request for review filed herewith.

Claims 1, 4, 6-7, 9-11, and 13-14 are pending. Claim 1 is independent. Claims 2-4, 6-7, 9-11, and 13-14 depend from claim 1. The Examiner has rejected claims 1, 4, 6-7, 10-11 under 35 U.S.C. 103(a) as being unpatentable over Barber in view of Griswold and Ross. The Examiner has rejected claims 2-3 under 35 U.S.C. 103(a) as being unpatentable over Barber, Griswold, Ross, and Smartsoft. The Examiner has rejected claim 9 under 35 U.S.C. 103(a) as being unpatentable over Barber, Griswold, Ross, and He. The Examiner has rejected claims 13-14 under 35 U.S.C. 103(a) as being unpatentable over Barber, Griswold, Ross, and Edwards. Applicants' respectfully submit that the Examiner clearly erred in rejecting the claims under 35 U.S.C. 103(a) despite compelling evidence that the Final Office Action does not set forth a prima facie case of obviousness.

In order to establish prima facie obviousness, all of the claim limitations must be taught or suggested by the prior art. See M.P.E.P. 2143.03. The combination of Barber, Griswold, and Ross fails to establish prima facie obviousness of claim 1, because the references do not disclose a “license string being generated using a cryptographic process by encoding data that includes date information corresponding to at least one of: a date of creation of the product; a date of a request for the product; and a date of generation of the license string;” and “verifying the license string including by: decoding the license string to identify the information; and determining that the date information is within a valid range,” as recited in claim 1.

Barber teaches allowing licenses for a computer program to be available for use at each of a plurality of nodes of a network. The license of Barber includes an encoding of a “UID” but does not include encoded date information. Col 10, lines 3-6 of Barber recites “The license manage 25A then decrypts the UID contained in the license file 22 for the license 27 and compares it to the UID for such license 27 that was received for the operating system 15.” An expiration date of Barber’s license is stored in a license file separate from the license as shown in Figure 2B of Barber. The license file is not generated using a cryptographic process. Hence, Barber does not teach a license string being generated using a cryptographic process by encoding data that includes date information. In addition, Page 5 of the office action acknowledges, “Barber et al, however, fails to explicitly disclose wherein the encoded information corresponds to at least one of 1) a date of creation of the product, 2) a version of the product, 3) a date of request for the product, and 4) a date of generation of the license string.”

In reference to Barber, Page 3 of the office action asserts, “Obviously, in determining by date whether the license is valid, the date of creation of the license, length of license validity and expiration date of license are determined and thus a range of dates is determined.” However, it is undisputed that Barber teaches encoding a “UID” using a cryptographic process and using a separate license file to store an expiration date of the license, and does not teach or suggest encoding date information “in a license string being generated using a cryptographic process” as recited in claim 1.

Griswold describes a license management system that records the use of a licensed product and controls its use in accordance with the terms of the license. The license of Griswold includes a license datagram including an encoded product model number, but the license datagram does not include date information. A termination date associated with the license is

stored in a license database separate from the license datagram. Page 4 of the Final Office Action recites, "Griswold provides motivation by indication that the types of information within the license database may require other types than specifically shown." Griswold suggests motivation for storing other types of information in a record of the license database, but the license database record is not "a license string being generated using a cryptographic process" as recited in claim 1. The license datagram of Griswold includes a product model number associated with a product model number stored in a license database record, but the license datagram does not include all information stored in the associated license database record. For example, even though a license termination date is stored in the associated license database record, the license termination date is not included in the license datagram (Griswold, Figure 2). Hence inclusion of data in the license database record does not suggest inclusion in the license datagram. Therefore, Griswold does not teach or suggest a license string being generated using a cryptographic process by encoding data that includes date information.

Ross teaches electronic management and enforcement of software licenses that can be used in a network or non-network environment to facilitate product licensing and upgrades. Ross does not teach or suggest a license string being generated using a cryptographic process by encoding data that includes date information. Therefore, the applicants respectfully submit that Barber, Griswold, and Ross neither singularly or in combination teach nor suggest every limitation of claim 1. As such, claim 1 is believed to be allowable.

Claims 2-4, 6-7, 9-11, and 13-14 depend from claim 1 and are believed to allowable for the same reasons described above.

Reconsideration of the application and allowance of all claims are respectfully requested based on the preceding remarks.

Respectfully submitted,

Dated: 4/26/06

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